

Amendment No. 1 to HB2166

Fowlkes
Signature of Sponsor

AMEND Senate Bill No. 2382

House Bill No. 2166*

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

By deleting all language following the enacting clause, and by substituting instead the following language:

SECTION 1. This act shall be known and may be cited as the "Neighborhood Preservation Act".

SECTION 2. As used in this act, unless the context otherwise requires:

(1) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one (1) person who maintains a household or by two (2) or more persons who maintain a common household;

(2) "Owner" means one (1) or more persons, jointly or severally, in whom is vested:

(A) All or part of the legal title to property; or

(B) All or part of the beneficial ownership and a right to the present use and enjoyment of the premises;

(3) "Residential property" means a dwelling unit which is owner-occupied and is the owner's principal place of residence; and

(4) "Residential rental property" means a building or structure consisting of one (1) or two (2) dwelling units.

SECTION 3. The owner of residential rental property or an unoccupied residence shall be required to maintain the exterior of such property and the lot on which the residential rental property or unoccupied residence is located at a level which is no less than the community standards of the residential property in the area.

It is prima facie evidence that the residential rental property or unoccupied residence is not maintained at the community standards of the residential property in the area if the owner of such residential rental property or unoccupied residence has been cited for three (3) or more

separate violations of local building and construction codes or property standards governing residential property within a one-year period and the owner has not brought the property into compliance with such building and construction codes or property standards within such period.

SECTION 4. An owner of residential property affected by residential rental property or an unoccupied residence not maintained to community standards of residential property in the area may bring an action for damages against the owner of such residential rental property or unoccupied residence for failure to maintain the property in the manner required in Section 3.

The measure of damages shall be the difference between the value of the owner's residential property if the residential rental property or unoccupied residence were maintained at the community standards of the residential property in the area and the value of the owner's residential property because the residential rental property or unoccupied residence is not maintained at such community standards.

As proof of the value of the owner's residential property, the plaintiff shall submit to the court two independent appraisals.

SECTION 5. If the court renders a judgment in favor of the plaintiff, the defendant shall have ninety (90) days to satisfy such judgment. If the defendant is unable to satisfy such judgment the plaintiff may file a motion asking the court to conduct a judicial sale of the defendant's residential rental property or unoccupied residence in accordance with title 35, chapter 5, part 1. The court shall have an independent appraiser determine the value of the residential rental property or unoccupied residence to be sold in order to set a minimum price for the opening bid on the property. If the residential rental property or unoccupied residence fails to be sold at the judicial sale then the court, upon a motion by the plaintiff, may transfer title to the property to the plaintiff to satisfy the judgment.

SECTION 6. The provisions of this act shall only apply in any county having a metropolitan form of government which has a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the

act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. This act shall take effect July 1, 2004, the public welfare requiring it.